

# LAFCO LEGISLATIVE AFFAIRS

## 2nd Quarter Report for 2007

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**JOYCE CROSTHWAITE**  
Executive Officer

Agenda Item No. 6a  
June 20, 2007

**TO:** Local Agency Formation Commission

**FROM:** Executive Officer  
Senior Project Manager

**SUBJECT:** Second Quarter Legislative Report (June 2007)

With June 8<sup>th</sup> as the deadline for all bills to pass out of their house of origin, this month we can expect several changes to bills of interest to LAFCO. Some of them have already experienced several amendments while a few have run into some hiccups or have not even moved past first base. In addition to LAFCO-related legislation, the Legislature is busy convening finance and budget committees and attempting to meet its deadline of June 15<sup>th</sup> for passing of the next fiscal year budget. If they are successful, the Legislature is expected to adjourn for Summer Recess on July 20<sup>th</sup>.

### Update on AB 745 (Silva) Campaign & Lobbying Disclosure Requirements

As you may recall, our Commission requested Assemblymember and former LAFCO Commissioner James Silva to carry legislation that would expand the existing law requiring the reporting of contributions and expenditures to include proposals which have not yet been submitted to LAFCO. At the March 14<sup>th</sup> LAFCO Regular Meeting, your Commission adopted a "support" position on the proposed language for AB 745.

More recently and through discussions with Peter Detwiler, Staff Director to the Senate Local Government Committee, more questions have been raised regarding the clarity of the existing legislation for campaign and lobbying disclosure requirements. Through research of the Committee, it was discovered that existing disclosure and reporting requirements do not apply to protest petitions. Presently, staff is working with the legislative staff to include amendments in AB 745 to address this issue. A legislative summary of these issues prepared by the Senate Local Government Committee is included as "Attachment A" to this staff report for your reference.

While the additional language for AB 745 is still in development, staff recommends that the Commission maintain its "support" position of the bill.

For your review, Table 1.1 reiterates the positions on LAFCO-related legislation that the Commission adopted at its March 14, 2007 meeting. Following the table is a summary and current status of each bill.

**Table 1.1 -- 2007 LAFCO-Interest Legislation -- Adopted Positions**

	Position	Bill	Author	Topic
1	<b>Support</b>	AB 1744	Asm Local Govt Comm	CKH Omnibus Bill -- Series of technical and non-controversial changes to correct or clarify government code specific to the CKH Act.
2	<b>Support</b>	AB 745	Silva	Campaign & Lobbying Disclosure Requirements
3	<b>Support if amended</b>	AB 1262	Caballero	Mandatory City/County Sphere Meeting
4	<b>Support -- proposed to be added to AB 1744</b>	AB 1263	Caballero	Changes to MSR Determinations
5	<b>Watch</b>	AB 1019	Blakeslee	RHNA Housing Unit Transfer
6	<b>Oppose</b>	SB 162	Negrete-McLeod	Environmental Justice
7	<b>Watch</b>	SB 167	Negrete-McLeod	Planning Grants & Incentives
8	<b>Watch</b>	SB 301	Romero	Incorporation CFA Funding
9	<b>Support</b>	SB 819	Hollingsworth	Consolidation of Unlike Districts

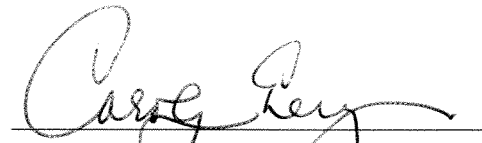
**RECOMMENDED ACTIONS:**

Staff recommends that the Commission take the following action:

1. Receive and file the March 14, 2007 Quarterly Legislative Report.

Respectfully submitted,

  
JOYCE CROSTHWAITE

  
CAROLYN EMERY

Attachment A: Disclosure of Political Contributions and Spending of LAFCO Petitions (*prepared by the Senate Local Government Committee*)

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Bill text is available for viewing and downloading in HTML and PDF formats on the Legislative Counsel's website at <http://www.leginfo.ca.gov>, or upon request to staff.

## Summary Discussion of 2007 Key Legislation

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### Recommended Positions

The following provides a summary of the 2007 legislation for which positions are recommended.

➤ **AB 1744 -- Omnibus Bill (Committees on Local Government)**

This statute is a result of the ongoing effort of CALAFCO and local LAFCOs with the Assembly and Senate Local Government Committees and legislative staff to “clean up” various areas of the Cortese-Knox-Hertzberg Act (CKH). Changes include a series of technical and non-controversial changes to correct or clarify government code specific to the CKH Act.

- **Status:** Scheduled for hearing, June 20<sup>th</sup>.
- **Recommendation:** Support; adopted by Commission on March 14<sup>th</sup>.

➤ **AB 745 (Silva) Campaign & Lobbying Disclosure Requirements**

Existing law authorizes a commission, through the adoption of the written policies and procedures, to require lobbying disclosure and reporting requirements for persons who attempt to influence pending decisions by commission members, staff, or consultants.

This bill would also require the disclosure of expenditures for political purposes made in connection with petitions not yet submitted to a local agency formation commission. Additional language is in development to expand reporting requirements to apply to conducting authority proceedings.

- **Status:** Scheduled for hearing, June 20<sup>th</sup>.
- **Recommendation:** Support; adopted by the Commission on March 14<sup>th</sup>.

➤ **AB 1019 (Blakeslee) Housing Number Transfer**

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 authorizes local governments to annex portions of territory to other local governments, as specified. The Planning and Zoning law requires local governments to adopt comprehensive general plans that address a number of elements, including the housing element. The Department of Housing and Community Development is required to assist local governments in the allocation of the regional housing needs. Existing law also authorizes a city or county to transfer a percentage of its share of the regional housing needs to another city or county, as specified.

This bill would authorize a similar mutually acceptable agreement on a revised determination of regional housing needs if an annexation of unincorporated land to a city occurs after the council of governments, or the department for areas with no council of governments, has made its final allocation.

This bill has been significantly amended and has removed LAFCo from the process.

- **Status:** No hearing scheduled.
- **Recommendation:** Watch; adopted by the Commission on March 14<sup>th</sup>.

➤ **AB 1262 (Caballero) Mandatory City/County Sphere Meeting**

Existing law requires a commission to develop and determine the sphere of influence of each local governmental agency within the county. Existing law requires, until January 1, 2008, that at least 30 days prior to submitting an application to the commission for a determination of a new sphere of influence or to update an existing sphere of influence for a city, representatives from the city meet with county representatives to discuss the proposed sphere and its boundaries, and to explore methods to reach agreement on the boundaries, development standards, and zoning requirements within the sphere, as specified. If an agreement is reached, it is required to be submitted to the commission, which shall give it great weight in the final determination of the city's sphere of influence. If no agreement is reached, the commission shall consider the applicant city's sphere of influence consistent with specified policies of the commission.

This bill would delete the January 1, 2008, limitation provision and make the existing requirements permanent. The Assembly and Senate staff have proposed several additional amendments other than just removing the sunset date. These include eliminating the reference to the 30 days, clarifying that this applies only for city SOI and that the weight a commission places on the agreement is based on adopted commission principles. Additionally, CALAFCO has submitted language that requires both the county and the city to have the meeting, so a county can't have a veto on a City SOI application simply by refusing to meet. The language is still in development.

- **Status:** Scheduled for hearing, June 20<sup>th</sup>.
- **Recommendation:** Support *if amended*.

➤ **AB 1263 (Caballero) Changes to MSR Determinations**

Existing law establishes in each county a local agency formation commission. The commission is required to develop and determine the sphere of influence of each local governmental agency within the county and enact policies designed to promote the logical and orderly development of areas within the sphere. Existing law requires the commission to conduct a service review of the municipal services provided in the county or other appropriate area designated by the commission, make specific determinations, and prepare a written statement of those determinations.

This bill would revise the determinations a commission is required to make and include in the written statement.

Because this bill has encountered no objection, the language will be added to the Omnibus Bill (AB 1744). The revised language will also include an amendment to strike the language that the Office of Planning and Research (OPR) is to prepare MSR Guidelines.

- **Status:** Added to Omnibus Bill (AB 1744).
- **Recommendation:** No action required.

➤ **SB 162 (Negrete-McLeod) Environmental Justice**

Existing law, the Cortese-Knox-Hertzberg Act, specifies the factors that a local agency formation commission is required to consider in the review of a proposal for a change of organization or reorganization including the comments of any affected local agency and information or comments from the landowner or owners, as specified.

This bill would also require a local agency formation commission to consider information or comments from voters or residents of the affected territory and the extent that the proposal will promote environmental justice, as defined, thus creating a state-mandated local program.

- **Status:** Scheduled for hearing, June 27<sup>th</sup>.
- **Recommendation:** Oppose; adopted by Commission on March 14<sup>th</sup>.

➤ **SB 167 (Negrete-McLeod) Planning Grants & Incentives**

Existing law also provides that the Office of Planning and Research (OPR) within the Governor's office serves as the state's comprehensive planning agency in the formulation, evaluation, and updating of, among other things, long-range goals and policies for land use, population growth and distribution, urban expansion,

development, open space, resource preservation and utilization, air and water quality, and other factors that shape statewide development patterns and significantly influence the quality of the state's environment.

This bill would require the Governor's Office of Planning and Research to administer a program, as specified, to award grants and loans to cities and counties to prepare and adopt general plans, including the costs of complying with the California Environmental Quality Act (CEQA). The bill would require OPR to prepare and adopt regulations for this purpose that meet specified criteria and would require the OPR to cooperate with the Secretary of the Resources Agency in any independent audits of expenditures pursuant to these provisions.

The Senate Local Government Committee staff is considering adding LAFCOs to the program. This would allow a LAFCO to apply for grants to assist with Municipal Service Reviews.

Presently, SB 167 has been placed in the Senate Suspense, which means it's dead. Some of the language has been transferred to SB 732, a bill that is currently being reviewed by CALAFCO Legislative staff.

- **Status:** Placed in Senate Suspense File.
- **Recommendation:** Watch; adopted by Commission on March 14<sup>th</sup>.
- **SB 301 (Romero) Incorporation CFA Funding**  
Existing law governs the organization and reorganization of local governments.

This bill expresses the intent of the Legislature to enact legislation that would provide a resource to interested residents who want to commission a study on the logistics and costs of incorporating a city.

- **Status:** Dead for this year.
- **Recommendation:** Watch; adopted by Commission on March 14<sup>th</sup>.
- **SB 819 (Hollingsworth) Consolidation of Unlike Districts**  
Existing law, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, establishes procedures for the organization and reorganization of cities and special districts. With respect to the consolidation of special districts, until January 1, 2005, the law required all of the districts to have been formed pursuant to the same principal act. Existing law, until July 1, 2008, permits the

consolidation of 2 or more special districts not formed pursuant to the same principal act if certain procedures are followed.

This bill would delete that July 1, 2008, expiration date on the authorization to consolidate 2 or more special districts not formed pursuant to the same principal act.

Existing law sets forth the various powers and duties of a local agency formation commission in reviewing and approving or disapproving proposals for changes of organization or reorganization. A commission may only initiate proposals for consolidation of districts, dissolution, merger, establishment of a subsidiary district, or a reorganization that includes any of those changes, and only under specified circumstances.

This bill would add to those proposals that may be initiated by a local agency formation commission the formation of a new district or districts, or a reorganization that includes the formation of a new district or districts.

- **Status:** Scheduled for hearing, June 4<sup>th</sup>.
- **Recommendation:** Support; adopted by Commission on March 14<sup>th</sup>.



### **Disclosure of Political Contributions and Spending on LAFCO Petitions**

The Political Reform Act requires ballot measure committees to disclose and report their contributions and expenditures. A local ballot initiative becomes a “measure” when the proponents start circulating petitions. When an initiative becomes a measure, a committee must begin reporting contributions and expenditures once it receives contributions of \$1,000 or more. A committee must report its contributions and expenditures even if they took place before the initiative became a measure. [Based on FPPC Campaign Manual 3, May 2006, Chapter 1.]

In its 1976 *Fontana* opinion, the Fair Political Practices Commission (FPPC) said that a petition for city incorporation was not a local initiative under the Political Reform Act. An incorporation proposal does not become a “measure” until local officials place the proposal on the ballot. However, once an incorporation proposal qualifies for the ballot, the supporters and opponents must disclose contributions and expenditures made before the proposal was actually placed on the ballot [*In re: Fontana* (1976) 2 FPPC Opinions 25]. In other words, their initial statements must be retrospective.

In the late 1990s, some San Fernando Valley residents wanted to secede from the City of Los Angeles. Los Angeles city officials wanted the secession proponents to disclose their financial backers. Because of the FPPC’s 1976 opinion, a city detachment petition to a local agency formation commission (LAFCO) isn’t a “measure” until local officials place a proposal on the ballot. Therefore, the San Fernando Valley secession proponents were not initially subject to the Political Reform Act’s reporting and disclosure requirements.

The Legislature created the Commission on Local Governance for the 21st Century to review the state laws relating to LAFCOs and boundary changes (AB 1484, Hertzberg, 1997). The Commission knew that Los Angeles officials were frustrated in their attempts to identify the secession movement’s financial backers. In its 2000 Growth Within Bounds report the Commission recommended that “proponents of reorganization actions be required to report campaign contributions in the same manner that local initiative proponents are required to report.” [Growth Within Bounds, pp. 45 & 154].

In response to the Commission’s recommendation, the Legislature amended the Cortese-Knox-Hertzberg Act to require that contributions and expenditures for political purposes on boundary changes that have been submitted to LAFCO must be disclosed and reported as if they were local initiative measures (AB 2838, Hertz-

berg, 2000) [Government Code §56700.1]. The 2000 Hertzberg bill also allowed LAFCOs to adopt local disclosure policies and procedures that are more stringent than the statewide requirements [Government Code §56100.1 & §56300 (b)].

Because these provisions are in the Cortese-Knox-Hertzberg Act and not part of the Political Reform Act, the FPPC does not enforce them, leaving enforcement up to the LAFCOs.

In 200\_, the Orange County LAFCO approved the City of Anaheim's application to annex a large pocket of unincorporated territory. Orange County's Board of Supervisors supported the proposed annexation. After approving the annexation proposal, the Orange County LAFCO held the required public hearing to measure protests. Opponents organized a resistance campaign. When the LAFCO found that more than a majority of the area's registered voters had signed protest petitions, the annexation proceedings stopped, as required by law. Anaheim and Orange County officials wanted the opponents to disclose their financial backers, but they discovered that state law does not require campaign reporting on protest petitions.

The existing reporting and disclosure requirements apply to "proposals" which the Cortese-Knox-Hertzberg Act defines as a request for a boundary change that's made by petition to LAFCO [Government Code §56069]. LAFCOs accept, review, and decide on "proposals" under Part 3 of the Cortese-Knox-Hertzberg Act. The protest petitions affect "proceedings" which the Act defines as the notice, hearing, and protest requirements that LAFCOs conduct [Government Code §56057]. LAFCOs act as the conducting authority [Government Code §56029] under Part 4 of the Act.

Therefore disclosure and reporting requirements imposed by the 2000 Hertzberg bill apply only to application petitions submitted to LAFCO under Part 3 of the Act; they are "proposals." Those requirements don't apply to protest petitions to LAFCO under Part 4 of the Act; they are "proceedings."